

FPPC *Bulletin*



April 2006

Fair Political Practices Commission

Volume 32, No. 1

IN THIS ISSUE:

<i>New AB 1234 regulation</i>	1
<i>FPPC media seminar</i>	3
<i>2006 meeting dates</i>	3
<i>Clerks' Corner</i>	4
<i>Revised manual</i>	5
<i>Year in review - 2005</i>	6
<i>Enforcement summaries</i>	21
<i>Legislative update</i>	29
<i>Litigation report</i>	33
<i>Advice summaries</i>	35

Toll-free Advice Line: 1-866-ASK-FPPC

Public officials, local government filing officers, candidates, lobbyists and others with obligations under the Political Reform Act are encouraged to call toll-free for advice on issues including campaign contributions and expenditures, lobbying and conflicts of interest. *FPPC staff members answer thousands of calls for telephone advice each month.*

FPPC Adopts Regulation To Aid Implementation of Local Training

By Chris Espinosa
FPPC Executive Fellow

At its January 2006 meeting, the Commission adopted new regulation 18371. This regulation assists the implementation of a major new local ethics training requirement that was passed by the Legislature and signed into law by the Governor in 2005.

Assembly Bill 1234 enacted Government Code section 53235, which requires all local agencies that provide compensation, salary, or stipend to, or reimburses the expenses of, members of a legislative body in the performance of their duties, to provide ethics training to local agency officials by January 1, 2007, and every two years thereafter.

This new statute further states that if an entity develops curricula to satisfy the requirements of this section, then the Commission and the state Attorney General shall be consulted regarding the proposed course content.

Since Government Code section 53235 is not in the Political Reform Act, the Commission's role in interpreting this section is limited to the consultation requirement regarding the ethics training course. However, the Commission moved quickly to adopt the new regulation — and launched a special AB 1234 page on its website — in an effort to be as helpful as possible to local agencies.

The following summarizes newly adopted regulation 18371:

Subdivision (a) is an enumeration of the core content topics of the ethics law component of this ethics orientation course. Though some of the topics and laws listed in this section are not under the jurisdiction of the Commission, they were included to help assist local agencies in complying with their duties under section 53235. After the regulation was originally noticed for public comment, new language was added to subdivision (a) before it was passed which did

(Continued on page 2)

**California
Fair Political
Practices Commission**

Commissioners

Liane Randolph, Chair
Philip Blair
Sheridan Downey III
A. Eugene Huguenin, Jr.
Ray Remy

Commission Meetings

Meetings are generally scheduled monthly in the Commission Hearing Room, 428 J Street, 8th Floor, Sacramento. Please contact the Commission or check the FPPC web site, <http://www.fppc.ca.gov>, to confirm meeting dates.

Pursuant to section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Decision and Order materials must be received by the FPPC no later than three (3) business days prior to the 10-day notice date.

The Commission meeting agenda and supporting documents are available free of charge on the Commission's web site at <http://www.fppc.ca.gov>. Additionally, past and future agendas are posted on the web site.

...New Rule Aids Local Ethics Training

(Continued from page 1)

the following: (1) required training in ethical principles, separate and apart from training in ethics law, and (2) expressly allowed local agencies to tailor the core topics covered in the training to the duties of the officials receiving the training.

Subdivision (b) of this regulation sets forth the core legal topics that are contained in the Political Reform Act. Topics covered in this section include: conflicts of interest, limitations on the receipts of gifts, honoraria ban, mass mailing restrictions, and economic interest disclosure.

Subdivision (c) sets forth the actual "consultation" rules to implement the new law. Specifically, subdivision (c) allows the trainer to self-certify. The requirements under this section are that the trainer has reviewed the materials specified by the Commission for core content topics covered by the Political Reform Act on the Commission's website, no more than 60 days in advance of the date the training is conducted, and that the training must be consistent with these materials. This will insure that the training will contain relatively updated material.

Subdivision (d) was added to clarify that the intent of the regulation was to deal specifically with the Commission's duties required by this new law, and not all of the requirements of this statute. In explaining that the regulation is not intended to eliminate or diminish requirements pertaining to laws and principles not in the Political reform Act, subdivision (d) explicitly states that the regulation does not affect instruction on "general ethics principles," "local ethics policies," or those ethics laws under the purview of the Office of the Attorney General."

The Commission is currently working with the Attorney General's office and the Institute for Local Government toward developing an online training program that would satisfy all of the requirements of section 53235. Though no target date has been set, the on line training program should be up and running toward the latter half of 2006.

For additional information on the background and history pertaining to the "Local Ethics Training Requirement," please check the Commission's website page <http://www.fppc.ca.gov/index.html?id=466> for materials relating to this item.

The FPPC *Bulletin* is published by the Fair Political Practices Commission

428 J Street, Suite 620, Sacramento, CA 95814

Internet: <http://www.fppc.ca.gov>

Toll-free advice line: 1-866-ASK-FPPC (1-866-275-3772)

Telephone: 1-916-322-5660

Enforcement hotline: 1-800-561-1861

The *Bulletin* is published quarterly on the FPPC web site. To receive the *Bulletin* by e-mail, use our web site Mailing Lists tool at <http://www.fppc.ca.gov/index.html?id=408>

FPPC Staff Members Host Educational Seminar For Reporters Covering Campaigns and Elections

By Jon Matthews

FPPC Information officer

FPPC staff members hosted a March 3 educational seminar for members of the media who follow candidates and campaigns.

The morning seminar, at FPPC headquarters in Sacramento, drew reporters from a broad cross-section of the Capitol press corps as well as other media representatives.

FPPC staff, using multi-media tools and live website demonstrations, provided a general overview and tips on understanding and interpreting public campaign and economic disclosure filings.

Campaign reporting requirements and filing deadlines were discussed, including the various reports required of candidates, contributors and ballot measure campaigns. Specific subjects included election filing schedules, electronic filing, voluntary expenditure limits, other Proposition 34 provisions, independent expenditures, and many other topics.

FPPC staff also discussed statement of economic interests (Form 700) filings required of thousands of state and local public officials, and reports of payments made at the behest of

Campaign Overview

- Election filing schedule
- Agency responsibilities
- What is a "committee"
- Prop. 34 provisions
- Common questions from the press on reporting information
- Co-sponsored payments

FPPC staff led multi-media overviews of disclosure rules.

candidates. Topics included the various reporting schedules on the Form 700, gift reporting and where to find copies of disclosure statements.

Staff members also used live web demonstrations to illustrate how to find information on the FPPC and Secretary of State websites.

Fair Political Practices Commission 2006 Commission Meeting Schedule

The Fair Political Practices Commission currently plans to meet on the following dates in 2006:

Thursday, April 13
Thursday, May 11
Thursday, June 8
Wednesday, July 12
No August meeting

Thursday September 7
Thursday, October 5
Thursday, November 2
Thursday, December 14

Meetings generally begin at 9:45 a.m. in the FPPC's 8th floor hearing room at 428 J Street, Sacramento. But please check the FPPC website regularly as dates and times can change. The direct link to our agenda page is:

<http://www.fppc.ca.gov/index.html?id=329>

The Clerks' Corner



Technical Assistance Division Offers Seminars for Candidates, Treasurers and Local Conflict-Of-Interest Code Review

By Adrienne Korchmaros
FPPC Political Reform Consultant

Another even-numbered year means lots of November elections. We at the FPPC would like to offer assistance to your candidates and their treasurers in how to prepare their campaign finance reports and observe the Political Reform Act's requirements and prohibitions.

All you have to do is contact Leah Yadon, our seminar coordinator, at lyadon@fppc.ca.gov, to request that one of the FPPC's consultants come to your city or county to present an informative workshop. The workshops last approximately two hours and will give your candidates the information they need to run for office without running afoul of the law.

Typically, candidates and their treasurers come away from these seminars feeling much more confident about how to easily complete their campaign finance disclosure reports.

There are a limited number of available seminar dates, so call soon with your request!

Not related to elections, but important at any time of the year, is the updating of your agency's conflict-of-interest code.

The Political Reform Act requires that local agencies periodically review their conflict-of-interest codes and amend them to incorporate changes to agency personnel and the duties assigned to each position. Unless these codes are regularly reviewed and amended, it's easy for the code to become out of date and no longer

relevant to your current agency structure.

FPPC staff is available to assist cities and counties in reviewing their conflict-of-interest codes and making the necessary changes. Two local agency conflict-of-interest seminars will be conducted in our offices, located in Sacramento at 428 J Street, Suite 800.

The first will be held on June 21 at 1:00 p.m., and the second on July 13 at 10:00 a.m. The City of Santa Rosa will hold a local agency conflict-of-interest code seminar on June 28th at 10:00 a.m., the City of Oceanside will hold one on June 29 at 1:00 p.m., the City of Palo Alto will hold one on July 13 at 10 a.m., and the City of Richmond will also host one on a date to be determined.

If you would like to attend, please call us at 1-866-275-3772 to sign up.

Also remember to frequently check our website for upcoming seminars on a variety of topics. Here is the link:

<http://www.fppc.ca.gov/index.html?id=359>

**Clerks:
The FPPC's toll-free
advice line
is also for you.**



**Call:
1-866-ASK-FPPC
(1-866-275-3772)**

FPPC Staff Prepares New and Revised Campaign Disclosure Manuals and Forms

By Tara Stock
FPPC Political Reform Consultant

The wait for the new ballot measure committee campaign disclosure manual is almost over!

Campaign Disclosure Manual 3 (for primarily formed ballot measures) will soon be presented to the Commission for approval and will then be made available on our website.

This new manual will replace Manual D (1995/1996), which is not on our website but has been available in printed form from the Commission.

Updates will also be made to the following publications:

- ◆ Campaign Disclosure Manual 1 (for state candidates)
- ◆ Campaign Disclosure Manual 2 (for local candidates)
- ◆ 2005 Addendum (for use with Manuals C, D & E)

The direct link to campaign disclosure manuals on our website is:

<http://www.fppc.ca.gov/index.html?id=234#2004>

In addition, at the March 2006 Commission meeting two regulations were amended and a new regulation was adopted to clarify:

- ◆ the Commission's policy on aggregation of contributions and independent expenditures made by related entities and individuals that direct and control payments made by an entity, and
- ◆ the reporting requirements relevant to aggregating contributions.

The Form 461 (for Major Donors and Independent Expenditure Committees) instructions will be revised to clarify the reporting requirements.

Following Commission approval, the form will also be posted on the FPPC website. The direct link to our forms page is:

<http://www.fppc.ca.gov/index.html?id=234>



California Fair Political Practices Commission

Year in Review: 2005



A year of service, dedication and planning
as the FPPC seeks new resources
to meet its growing workload and statutory obligations

The Fair Political Practices Commission marked its 31st year of service to Californians in 2005.

It was a year of dedication, hard work and planning in a small state agency with broad responsibilities for administering the Political Reform Act.

The independent Commission and its staff of 60 faced a host of challenges during 2005 including additional budget reductions and heavy workloads. But the year also brought many accomplishments and new goals that we hope are introducing an era of more stable funding and staff and even stronger public service.

Created by voters with the passage of the Political Reform Act of 1974, the Commission is responsible for administering and enforcing the Act's rules on conflicts of interest, campaign contributions and expenditures and lobbying disclosure. The Act is frequently amended, making implementation and education very much of an ongoing task.

Our regulated community includes tens of thousands of state and local government officials and designated employees, as well as state and local candidates, campaign committees, major donors and lobbyists.

Without doubt, the FPPC's accomplishments in 2005 were greatly aided by the cooperation of thousands of filing officials and other local and state agency representatives. Vital, too, was the overwhelming majority of public officials, candidates and lobbyists who diligently complied with the requirements of the Act and, when in doubt, sought prospective advice from the Commission.

In 2005, a number of media editorial boards saw fit to declare the need for restored and increased funding for the Commission and the overall administration of the Act. As 2006 began, the Governor's fiscal year 2006-2007 budget proposed restoration of some previously cut budget funding, and the Legislature was considering that and other proposals to help the Commission keep up with its mounting workload and statutory responsibilities.

Please note that this article is not a comprehensive summary of all FPPC activity during the past year. But we want to highlight some of the major accomplishments and

*Excerpt from the new 2006-2010
FPPC Strategic Plan:*

Goal C: Secure sufficient funding, and a consistent funding source, to meet workload needs.

1. Obtain a 50% increase in funding in order to meet workload.
2. Develop component of annual report that documents workload and funding levels, and provide that information to the Legislature and Department of Finance.
3. Make all funding statutory to ensure adequate support for required workload.
4. Obtain additional positions in all divisions to meet workload.

events at the FPPC in 2005 including:

- ◆ Two new commissioners were appointed to the five-member, bipartisan Commission: Ray Remy, a longtime business leader and a former state department head, and A. Eugene Huguenin, Jr., a veteran Sacramento-area attorney. Remy replaced Commissioner Pamela Karlan, a Stanford University Law School professor whose term expired January 31, 2005. Huguenin replaced Commissioner Thomas S. Knox, a partner with the Sacramento law firm of Knox, Lemmon & Anapolsky, LLP. Knox's term also expired January 31.
- ◆ The Commission worked quickly to formulate a new regulation aiding the implementation of Assembly Bill 1234, a new law requiring local agency ethics training.
- ◆ The U.S. District Court ruled in the Commission's favor in a case filed by the California Pro-Life Council (CPLC) against the FPPC in 2000. The case challenged the constitution-

(Continued on page 8)

(Continued from page 7)

ality of disclosure rules for groups which are not exclusively political committees but engage in political activity -- such as advocating for or against ballot measures. The court found that the State of California has a compelling state interest in requiring disclosure of certain contributions to CPLC, as well as disclosure of expenditures by CPLC to fund express ballot measure advocacy. The court also found that the challenged rules were sufficiently tailored to pass constitutional muster. The case remains under appeal.



FPPC Political Reform Consultant Teri Rindahl leads a seminar for Statement of Economic Interests filing officers. She is assisted by Staff Services Analyst Cynthia Fisher.

- ◆ After an extensive hearing process, the Commission in December adopted a new, four-year Strategic Plan. The major goals call for improving productivity and efficiency throughout the agency, improving recruitment and retention of employees throughout the agency, securing sufficient funding and a consistent funding source to meet workload needs, and seeking amendments to the Political Reform Act that promote compliance and workload management.
- ◆ Staff of the Technical Assistance Division answered tens of thousands of calls for advice from the regulated community, and the Legal Division and Technical Assistance provided hundreds of formal or informal letters of advice. As funds permitted, Commission staff hosted a variety of seminars and workshops.
- ◆ The Enforcement Division opened 876 enforcement case files and completed prosecution of 177 cases during the year. The Commission assessed just over \$1 million in administrative and civil fines in 2005. Major cases included a \$95,000 civil settlement with Ward Connerly and his American Civil Rights Coalition (ACRC) for unlawfully failing to disclose contributions supporting

Proposition 54 on the October 7, 2003, special election ballot. The Enforcement Division developed and implemented plans to sharply reduce complaint backlogs and reduce the average time needed to complete prosecutions.

- ◆ In 2005, Commission staff continued to produce new and revised filing manuals, including a new lobbying disclosure manual. All new manuals are free on the FPPC's web-site.
- ◆ The Commission and staff continued to seek legislative enactment of a proposed pilot project to grant the FPPC limited jurisdiction over Government Code section 1090, et seq. The FPPC believes this project could greatly benefit the regulated community, which now must turn elsewhere for advice on these conflict laws.

The FPPC is one of the smaller state agencies and has its office and headquarters in Sacramento at 428 J Street. We have a staff of approximately 60 employees and had a 2005-06 fiscal year budget of approximately \$6.1 million. In comparison, in fiscal year 2000-2001 our

(Continued on page 9)

(Continued from page 8)

budget was \$6.6 million.

Administrative and civil fines collected by the FPPC are not retained by the Commission but are forwarded to the state's General Fund.

The chair of the Commission serves full time and is salaried, while the four other commissioners serve part time and receive a modest stipend for each monthly meeting.

The Commission had over 220 agenda items before it during its 2005 meetings, requiring extensive preparations and review of documents by the commissioners prior to each meeting.

Strategic Plan adopted

Major Commission projects in 2005 included adoption of a new, four-year strategic plan. The goals of the strategic plan apply to the period of 2006-2010 and cover a broad range of the agency's mission. They include:

- ♦ **Improving productivity and efficiency throughout the agency, including reducing the time needed to close enforcement complaints and respond to requests for written advice**
- ♦ **Improving the recruitment and retention of employees throughout the agency**
- ♦ **Securing sufficient funding, and a consistent funding source, to meet workload needs. This includes seeking a 50% increase in funding over the next four years**
- ♦ **Seeking amendments to the Political Reform Act that aid compliance and workload management**

After the plan was adopted, Commission Chair Liane Randolph declared, "The strategic planning process has given the Commission a valuable chance to assess the current status of our many services as well as formulate specific goals for improvement. It is clear that we need substantial new funds to adequately address our growing workload, and we are now increasingly optimistic that we will receive a positive response to our budget requests."

Randolph said any additional funding received by the FPPC will be distributed to all of the Commission major programs — including advice and education functions — in addition to the Enforcement Division.

In a staff memorandum presented with the strategic plan at the December 2005 meeting, FPPC Executive Director Mark Krausse outlined some of the agency's accomplishments despite recent years' budget reductions.

"It is important to take this occasion to call attention to the great many things we get right, to the many improvements we've made during a period of dwindling resources and mounting workload and, above all, to the great contributions of our dedicated employees," Krausse wrote.

(Continued on page 10)



Commission Assistant Kelly Nelson organized and coordinated the FPPC's annual contribution to the state employees' holiday food drive. In 2005, FPPC employees donated 1,277 pounds of food (including cash equivalents). Commission staff also hosted blood drives and other charitable activities and events.

(Continued from page 9)

The executive director said accomplishments included:

- ◆ Despite a 33 percent reduction in staffing in the Enforcement Division during the past five years, the number of cases closed with fines over that same period remained virtually level, and total fine levels for that period were consistently if moderately higher.
- ◆ Similarly, despite diminished staff resources, the Legal Division has held its average response time on advice letters virtually level while handling implementation of Proposition 34, a higher level of regulatory work in general, and a marked increase in litigation and requests for opinions.
- ◆ The public voice of the Commission, the Technical Assistance Division, has consistently delivered on its mission of education, regularly receiving commendations from candidates, filing officers and other public officials—again, all in the context of fewer division staff having to respond to increasingly complex and numerous requests for assistance.

Copies of the strategic plan are available in the “Commission” section of the FPPC’s website.

Commission moves quickly to adopt AB1234 regulation

The Commission moved quickly in 2005 to adopt a regulation to assist local agencies with a new ethics training law. The legislation requires (among other things) that all local agencies that provide compensation, salary, or stipend to, or reimburse the expenses of, members of a legislative body must provide ethics training to local agency officials by January 1, 2007, and every two years thereafter. The term “legislative body” includes not only the governing body of a local agency, but also a commission, committee, board, or other body of a local

Lobbying Disclosure Information Manual

California Fair Political Practices Commission

Toll-free advice line: 1 (866) ASK-FPPC
Web site: www.fppc.ca.gov

July 2005

The FPPC produced new and revised publications in 2005, including this completely rewritten disclosure manual for lobbyists. The manual is free on the FPPC’s website.

agency, whether permanent or temporary, decision-making or advisory.

The legislation further provides that if an entity develops criteria for the ethics training, the Fair Political Practices Commission and the Attorney General’s Office must be consulted regarding the proposed course content. After extensive work in the fall of 2005, the Commission adopted a new regulation, 18371, to assist in the implementation of AB1234. In addition, Commission staff have been working with other entities and agencies in this process. Please note that the enacted statute (Government Code section 53235) is not in the Political Reform Act. Therefore, other than the consultation requirement re-

(Continued on page 11)

(Continued from page 10)

garding the training course, the Commission has no jurisdiction to interpret the new legislation.

The FPPC has created a special AB 1234 page on its website:

<http://www.fppc.ca.gov/index.html?id=466>

Informing the Public and Regulated Community

While the FPPC is often “in the news” for its enforcement activities, another important part of the Commission’s mission is educating and advising the regulated community so as to prevent violations of the Political Reform Act.

In fact, many of the FPPC’s staff members spend all or a good share of their workweek providing or developing advice to the regulating community or providing general public information and education.

In 2005, the FPPC popular toll-free advice line—1-866-ASK-FPPC—completed its fifth full year of operation.

On all lines coming into the FPPC in 2005, including our toll-free line, our Technical Assistance Division staff members answered over 47,000 calls seeking advice, guidance and other assistance. The Technical Assistance Division is led by veteran FPPC employee Carla Wardlow.

Here are some interesting facts about the calls we received:

- ◆ By far the busiest hour of the day was from 9 a.m. - 10 a.m.
- ◆ The busiest day of the week on average was Monday.
- ◆ The busiest month of 2005 was March, with 5,891 calls.

(Continued on page 12)

The FPPC: Who we are

The Fair Political Practices Commission was created by the Political Reform Act of 1974, a ballot initiative passed by California voters as Proposition 9.

The Commission is a bipartisan (and in practice, non-partisan), independent body of five members that administers and enforces the Political Reform Act’s rules on conflicts of interest, campaign contributions and expenditures and lobbying disclosure.

The Commission educates the public and public officials on the requirements of the Act. It provides written and oral advice to public agencies and officials; conducts seminars and training sessions; develops forms, manuals, instructions and educational materials; and receives and files economic interests statements from many state and local officials.

The Commission investigates alleged violations of the Political Reform Act, imposes penalties when appropriate and assists state and local agencies in developing and enforcing conflict-of-interest codes.

The Governor appoints two commissioners, including the chairman. The Secretary of State, the Attorney General and the State Controller each appoint one commissioner. Commissioners serve a single, four-year term, and no more than three members can be registered with the same political party. The chairman is salaried and serves full-time, and the other four members serve part-time.

The Commission generally meets once each month to hear public testimony, issue opinions, adopt regulations, order penalties for violations of the Act and take other action.

Supporting the Commission is a staff of 60 employees. The Commission has four divisions — Enforcement, Technical Assistance, Legal and Administration, as well as a small executive staff.

The Commission is headquartered at 428 J Street in downtown Sacramento. The public reception area is in Suite 620.

(Continued from page 11)

- ◆ The slowest month was December, with 2,592 calls.

In addition, FPPC staff members wrote 260 formal or informal letters of advice to those with obligations or duties under the Political Reform Act. The Legal Division and Technical Assistance Division held numerous joint internal advice meetings on the more complex advice questions.

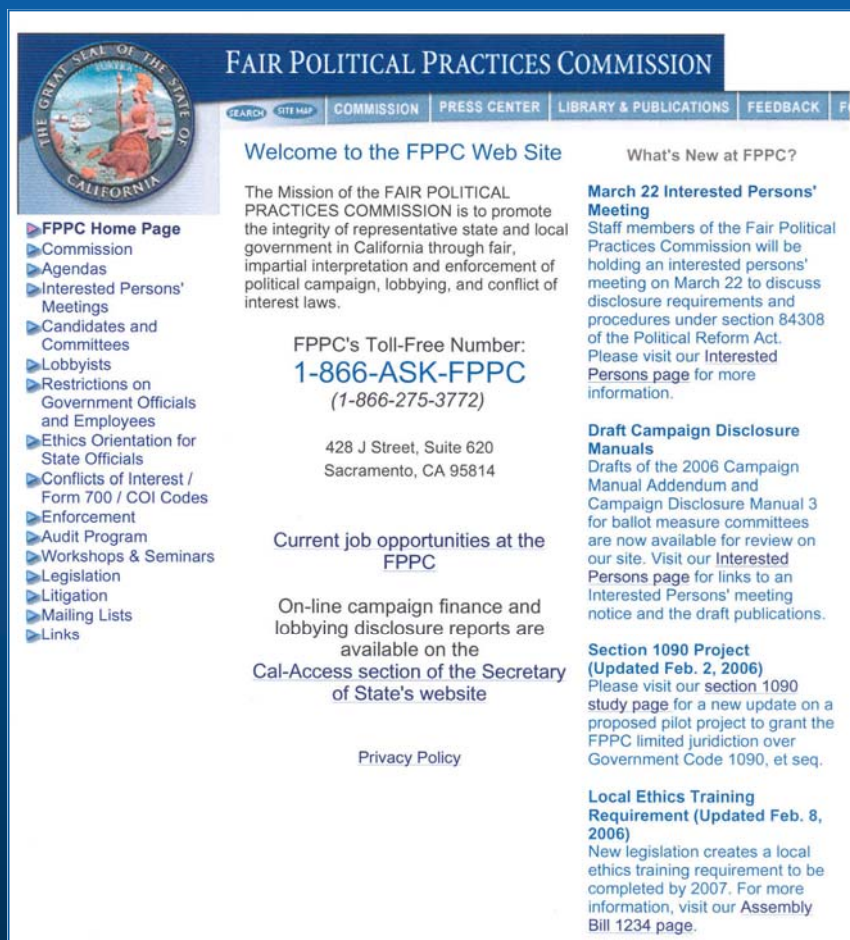
Numerous seminars and outreach visits were conducted by the FPPC's Technical Assistance Division. These seminars covered Statement of Economic Interests filing obligations, campaign disclosure requirements and other

subjects. Staff members offered PowerPoint presentations, informal discussions, and lengthy opportunities for questions and answers. Unfortunately, budget reductions continued to hamper the ability of our staff members to travel. In some cases, other agencies and local governments have helped finance travel expenses, and the FPPC hopes some of the proposed restored budget funds can be used to finance more staff travel and outreach in the coming year.

Seminars in 2005 included:

- ◆ Ten candidate/treasurer seminars
- ◆ Ten seminars for Statement of Economic Interests filing officers

(Continued on page 13)



The screenshot shows the homepage of the Fair Political Practices Commission (FPPC) website. At the top is the California State Seal and the title "FAIR POLITICAL PRACTICES COMMISSION". A navigation bar includes links for SEARCH, SITE MAP, COMMISSION, PRESS CENTER, LIBRARY & PUBLICATIONS, and FEEDBACK. The main content area is titled "Welcome to the FPPC Web Site" and includes the mission statement, contact information (toll-free number 1-866-ASK-FPPC, address 428 J Street, Suite 620, Sacramento, CA 95814), and current job opportunities. A sidebar on the left lists various links such as FPPC Home Page, Commission, Agendas, Interested Persons' Meetings, Candidates and Committees, Lobbyists, Restrictions on Government Officials and Employees, Ethics Orientation for State Officials, Conflicts of Interest / Form 700 / COI Codes, Enforcement, Audit Program, Workshops & Seminars, Legislation, Litigation, Mailing Lists, and Links. On the right, there are sections for "What's New at FPPC?" featuring updates on a March 22 meeting, draft campaign disclosure manuals, a Section 1090 project update, and local ethics training requirements.

The FPPC website, www.fppc.ca.gov, provides the public and regulated communities with extensive information on the Political Reform Act and Commission activities, including complete monthly agenda materials.

(Continued from page 12)

- ◆ Seven seminars for individual agencies and those agency's Statement of Economic Interests filers
- ◆ Two seminars for local agencies on how to amend their conflict-of-interest code and two campaign filing officer workshops

The Technical Assistance Division's Carla Wardlow and Lynda Cassady provided ethics training to lobbyists in January. Chairman Randolph also spoke at those ethics seminars.

These seminars attracted nearly 1000 attendees in 2005.

Other Commission staff, including those from Executive, the Legal Division, the Enforcement Division and the Communications Office, also participated in many outreach and educational activities. Groups and organizations addressed by FPPC staff included the California District Attorneys Association, the California Political Attorneys Association, the state Assembly Fellows, the Latino Caucus Institute, the Institute for Governmental Advocates, the League of United Latin American Citizens (LULAC), and the Municipal Treasurers Association.

Two FPPC staff members participated in the 28th annual conference of the Council on Governmental Ethics Laws (COGEL) -- the international organization of ethics, elections and freedom of information agencies -- in Boston from December 4-7. The staff members attended a variety of educational panels and presentations and helped moderate a breakfast roundtable discussion on California's new local ethics training law, AB 1234.

The FPPC produced or revised a number of publications during 2005, including a new lobbying disclosure manual. This new manual was developed to assist lobbyists, lobbying firms, lobbyist employers, lobbying coalitions, and \$5,000 filers to comply with the Political Reform Act's numerous and detailed rules concerning lobbying disclosure.

The two campaign disclosure manuals were revised in May 2005. These two manuals — Campaign Disclosure Manual 1 and Campaign Disclosure Manual 2 — include information on candidates' and committees' record keeping

requirements, definitions important to campaigns, reporting obligations, and restrictions and prohibitions.

Numerous FPPC forms and accompanying instructions also were revised in 2005 to conform with changes to the Political Reform Act and to simplify compliance.

Other new or revised publications included a 2005 Addendum to FPPC Campaign Disclosure Information Manuals C - E, the 2006 version of the Political Reform Act of 1974, two updated fact sheets on Limitations and Restrictions on Gifts, Honoraria, Travel and Loans (one for state officers and one for local officials), and four issues of our newsletter, the FPPC *Bulletin*. The e-mail subscription list for the *Bulletin* continues to grow and has over 1,000 subscribers.

The FPPC's information officer and communications coordinator, assisted by the executive fellow, responded to hundreds of inquiries from journalists from newspapers, radio and television broadcast networks and stations, magazines, web-based publications, newsletters and the foreign press. Assistance provided by the agency included copies of Statements of Economic Interests and other public records, in-depth interviews, telephone assistance and publication of numerous press releases and press advisories. The office produced over 30 news releases or news advisories during the year.

With the assistance of all divisions, the Communications Office coordinated the regular updating of the FPPC's website, published the FPPC *Bulletin* and other educational publications, provided a dial-in broadcast of Commission meetings and offered other services.

Enforcing the law

In 2005, the FPPC's Enforcement Division opened 876 enforcement case files and completed prosecution of 177 cases.

The Commission assessed just over \$1 million in administrative and civil fines in 2005. (Please see the charts on the following pages for details.)

John Appelbaum, a former deputy attorney

(Continued on page 14)

(Continued from page 13)

general, was appointed as new chief of the Enforcement Division in May of 2005. Working with enforcement staff and the Commission, he began to implement the Commission's goals of reducing the backlog of enforcement cases and reducing the average time needed to prosecute a case. As 2006 began, Appelbaum reported progress in both of these areas.

Appelbaum, as did other FPPC managers, also worked with the Commission to add new staff and reduce turnover by seeking more equitable pay scales for employees as compared to pay scales for equivalent work in other state agencies.

The special proactive programs used by the

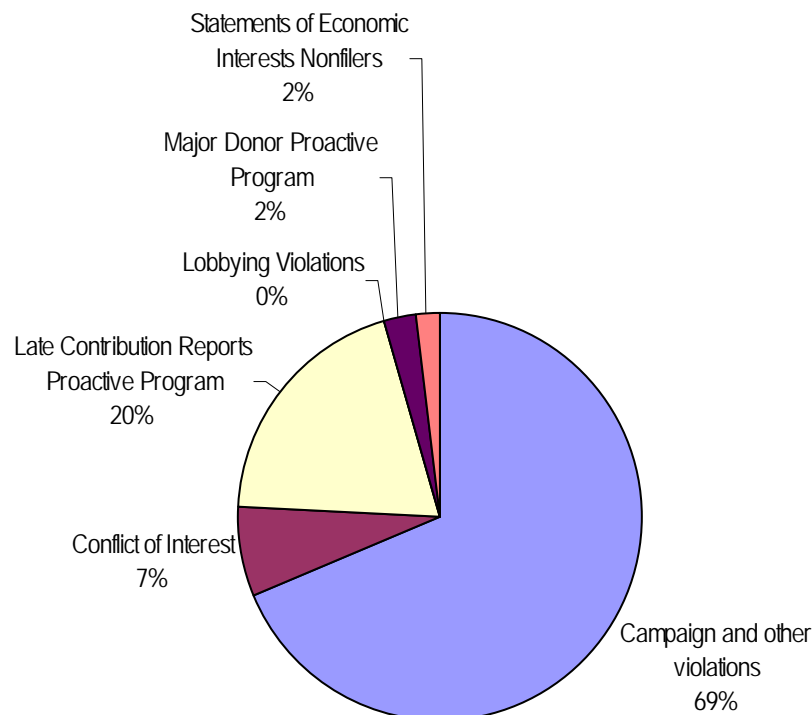
Enforcement Division result in expedited prosecutions and more timely public disclosure.

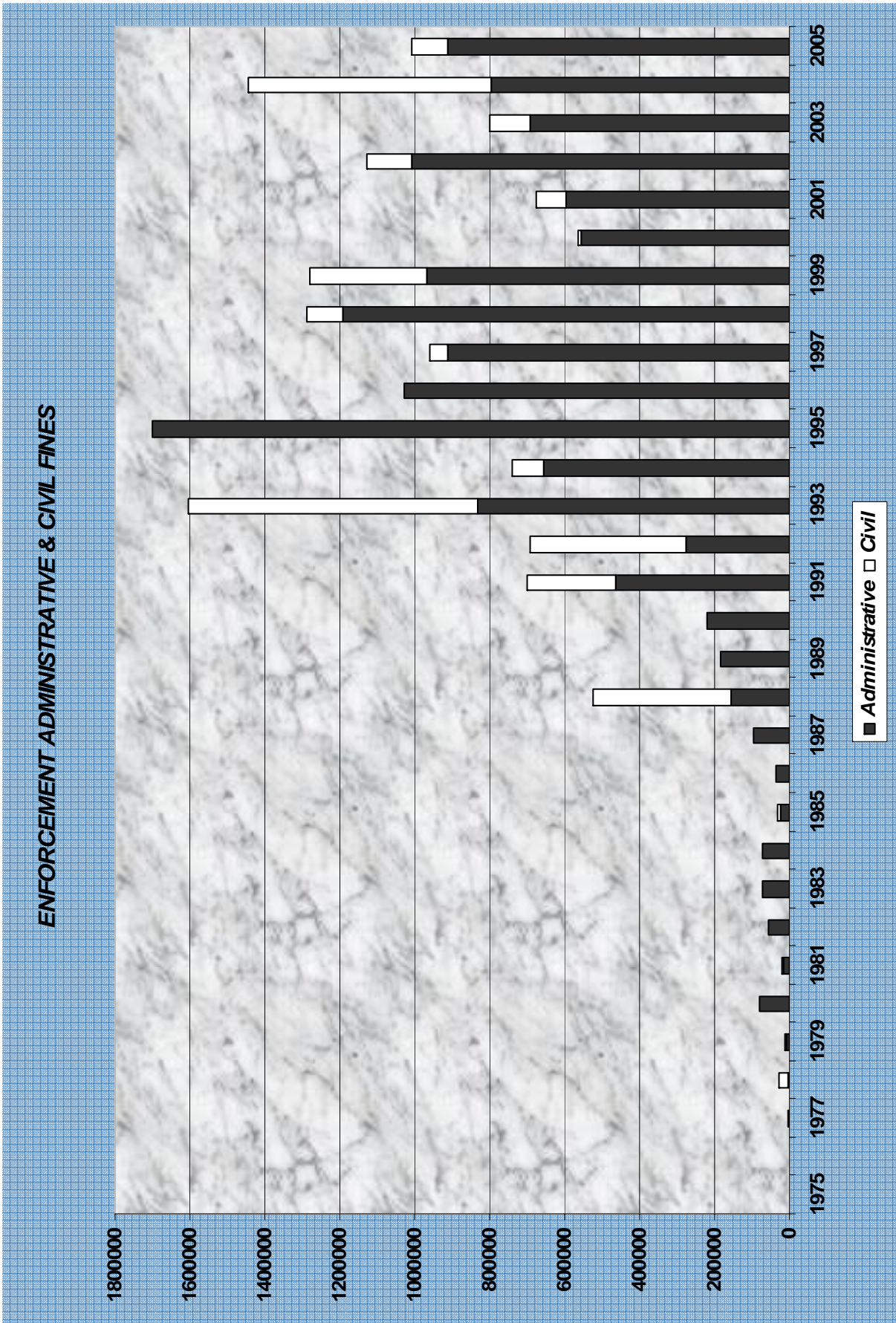
Even with the streamlined programs in place, workload demands continued to outstrip the influx of cases. In 2005, the Enforcement Division had to drop about 225 cases they could have otherwise pursued.

While the division's staffing level has decreased over the years — current staffing is only slightly higher than 1983 levels — the number of enforcement cases has dramatically increased. In spite of these challenges, staff members have been able to substantially increase the numbers of cases prosecuted as well as the total amount of fines imposed. These increases are

(Continued on page 17)

2005 Total Administrative and Civil Fines—\$1,007,473.87 Fines By Type of Violation





FAIR POLITICAL PRACTICES COMMISSION

ENFORCEMENT ACTIONS

SUMMARY OF FINES ASSESSED AND IMPOSED

1975 THROUGH 2005

Year	Administrative Actions				Civil Judgments		Total Fines By Year
	No. of Cases	Fines Assessed	Fines Waived	Fines Imposed	No. of Cases	Fines Assessed	
1975	0	\$0	\$0	\$0	0	\$0	\$0
1976	11	\$1,400	\$500	\$900	0	\$0	\$900
1977	1	\$4,000	\$0	\$4,000	0	\$0	\$4,000
1978	1	\$4,500	\$0	\$4,500	2	\$25,250	\$29,750
1979	8	\$6,820	\$0	\$6,820	2	\$6,500	\$13,320
1980	18	\$79,600	\$35,950	\$43,650	1	\$1,000	\$44,650
1981	5	\$14,600	\$3,000	\$11,600	2	\$5,000	\$16,600
1982	10	\$57,500	\$10,750	\$46,750	0	\$0	\$46,750
1983	5	\$71,100	\$12,500	\$58,600	1	\$1,250	\$59,850
1984	15	\$72,200	\$4,000	\$68,200	0	\$0	\$68,200
1985	7	\$24,750	\$5,000	\$19,750	1	\$9,000	\$28,750
1986	12	\$37,400	\$1,250	\$36,150	0	\$0	\$36,150
1987	22	\$97,900	\$6,000	\$91,900	0	\$0	\$91,900
1988	34	\$154,600	\$10,500	\$144,100	3	\$367,500	\$511,600
1989	35	\$182,250	\$0	\$182,250	0	\$0	\$182,250
1990	36	\$219,000	\$0	\$219,000	0	\$0	\$219,000
1991	39	\$463,550	\$0	\$463,550	3	\$235,000	\$698,550
1992	44	\$276,450	\$0	\$276,450	3	\$415,000	\$691,450
1993	36	\$833,050	\$0	\$833,050	1	\$772,000	\$1,605,050
1994	30	\$656,800	\$0	\$656,800	1	\$85,000	\$741,800
1995	51	\$1,698,050	\$0	\$1,698,050	0	\$0	\$1,698,050
1996	56	\$1,026,221	\$0	\$1,026,221	0	\$0	\$1,026,221
1997	54	\$912,650	\$0	\$912,650	2	\$47,000	\$959,650
1998	96	\$1,190,710	\$0	\$1,190,710	7	\$95,490	\$1,286,200
1999	63	\$968,500	\$0	\$968,500	5	\$309,900	\$1,278,400
2000	174	\$554,037	\$0	\$554,037	1	\$9,100	\$563,137
2001	158	\$595,000	\$0	\$595,000	2	\$83,000	\$678,000
2002	143	\$1,007,836	\$0	\$1,007,836	4	\$119,000	\$1,126,836
2003	256	\$693,734	\$0	\$693,734	2	\$105,000	\$798,734
2004	162	\$797,562	\$0	\$797,562	6	\$648,000	\$1,445,562
2005	176	\$912,474	\$0	\$912,474	1	\$95,000	\$1,007,474
TOTALS	1,758	\$13,614,243	\$89,450	\$13,524,793	50	\$3,433,990	\$16,958,783

(Continued from page 14)

due, in part, to the streamlined programs, but also to the Enforcement Division's dedicated staff.

Of the newly opened enforcement cases in 2005, 69 percent stemmed from campaign and other violations, 20 percent from the Commission's Late Contribution Reports Proactive (streamlined) Program, seven percent from conflict-of-interest violations, two percent from the Statement of Economic Interests Nonfilers Proactive (streamlined) Program, and two percent from the Major Donor Proactive (streamlined) Program.

From 1975 to 2005, the cumulative total of FPPC administrative and civil fines reached \$16,958,783. (This total does not include \$89,450 in assessed fines that were waived by the Commission in 1976 and during the 1980s.)

In addition, the Enforcement Division continually strived to educate and alert respondents with the goal of preventing additional violations of the Political Reform Act in the future.

While the vast majority of enforcement cases are resolved through stipulated settlement agreements, the FPPC also is empowered to take enforcement cases before the civil courts. Attorneys and other staff from the FPPC's Legal and Enforcement Divisions — in some cases with the assistance of outside counsel — devote much of their time to these cases.

Major enforcement cases completed in 2005 included:

- ◆ A \$95,000 civil settlement with Ward Connerly and his American Civil Rights Coalition (ACRC) for unlawfully failing to disclose contributions supporting Proposition 54 on the October 7, 2003, special election ballot. The terms of the settlement required ACRC and Ward Connerly to admit they violated campaign laws by failing to file reports disclosing the contributions. They filed the reports on May 18.
- ◆ A money laundering and failure to dis-

close case involving the De Anza Community College District

- ◆ A money laundering case involving a hotel owner who sought to evade local contribution limits
- ◆ Two related cases that involved laundering money to a San Diego candidate to evade contribution limits

Interpreting the law

The Commission, assisted by the Legal Division and other staff members, also continued its interpretation and implementing of the Political Reform Act through a variety of regulatory projects. These efforts included the adoption, amendment or repeal of 34 regulations during 2005. The Legal Division is led by FPPC General Counsel Luisa Menchaca.

The Commission issued one formal opinion during 2005:

(Continued on page 18)



Accounting Specialist Luz Bonetti is one of the staff members of the FPPC's Enforcement Division. The division handled a number of major cases in 2005.

(Continued from page 17)

- ◆ *In re St. Croix, 18 FPPC Ops. 1, O-04-226, dealt with San Francisco's new Ranked-Choice Voting system. The specific opinion request pertained to the application of section 85501 to candidate sponsored mailings ranking candidates in a particular order for the voters.*

Major new regulatory projects in 2005 included addressing issues in the "Gift Cluster" regulations. This involved amending regulations 18941.1, 18946, 18946.2, and 18946.4; and creating and adopting regulation 18640. By adopting these amendments and adding regulation 18640, staff was able to (1) provide a more accurate reflection of the true value of premium event tickets, (2) codify the current advice for establishing the value of attending any invitation-only event and the value of attendance at an event on a "drop-in" basis, and (3) determine a proper modification of the "no value rule" for tickets to 501(c)(3) fundraising events, including when the event is a commercial entertainment event.

Regulations 18700, 18707, and 18708, dealing with conflict-of-interest rules, were amended to expressly provide that in an enforcement proceeding for a conflict-of-interest violation, it is the respondent's burden to establish that the public generally or legally required exception applies as affirmative defenses.

Another major regulation project that was undertaken included amending the Post-Employment "Permanent Ban" that is covered in regulation 18741.1. Amendments to this regulation were adopted to add conforming language as a result of the Commission's *In re Lucas* Opinion (2000), and clarified what matters a supervisor is deemed to have participated in as a result of the proceeding being "under his or her supervisory authority."

List of 2005 FPPC Interested Persons' Meetings

- ◆ August 10, 2005, at 10 a.m.
Designation of Certain Administrative Enforcement Decisions As Having Precedential Value
- ◆ August 10, 2005, at 11:15 a.m.
Hard and Soft Money Accounts
- ◆ June 21, 2005, at 10 a.m.
Review of Revised Lobbying Disclosure Manual
- ◆ May 19, 2005, at 10 a.m.
Affiliated Entities and Aggregation
- ◆ March 30, 2005, at 10 a.m.
Proposition 71 - Institute of Regenerative Medicine
- ◆ March 9, 2005, at 2 p.m.
Discussion of Amendment to Regulation 18702.4, Proposed Adoption of Regulation 18750.2 and Regulation 18755
- ◆ February 11, 2005, at 2 p.m.
Receipts and Expenditures Reportable Under Both State and Federal Law
- ◆ January 13, 2005 (10 a.m. - 11:30 a.m.)
Proposition 34 - Section 85307 - Extensions of Credit

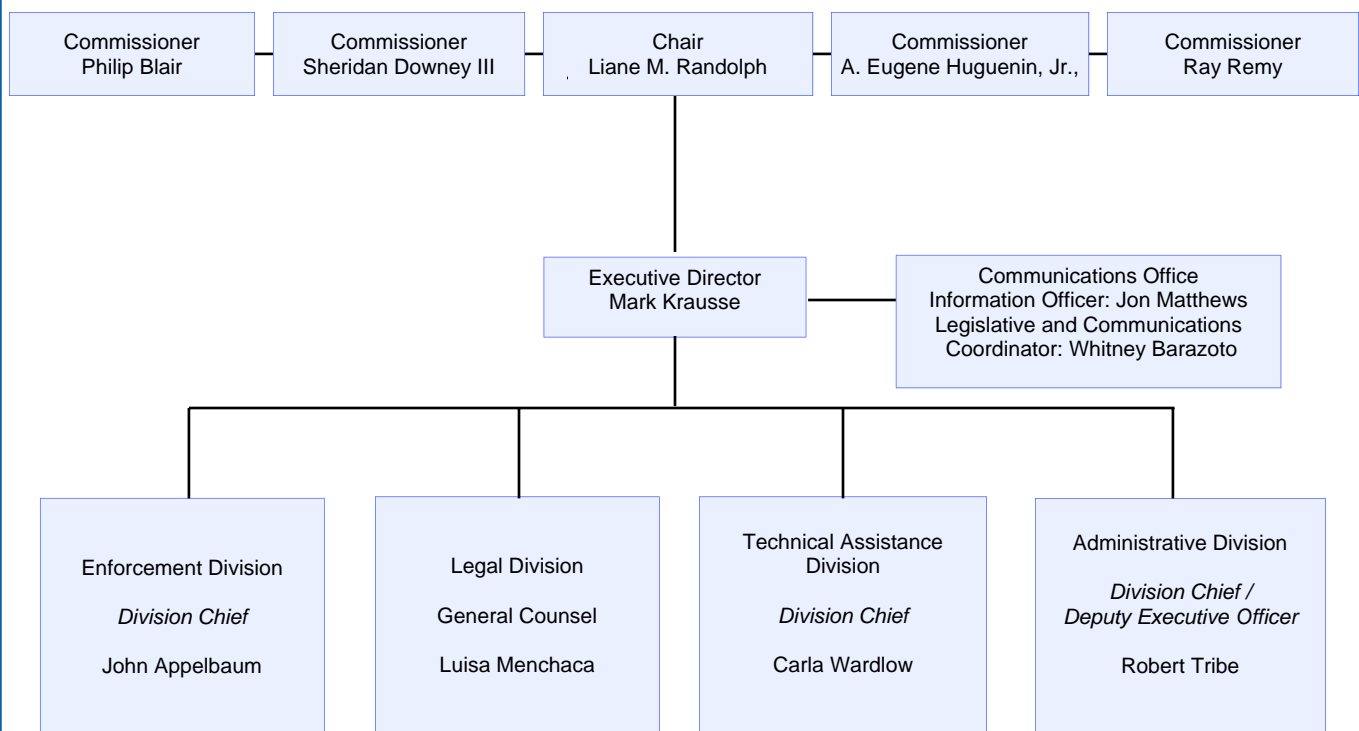
Also, two new regulations were adopted to (1) address when an official is required to file statements of economic interests (regulation 18722) and (2) specify that the failure of a person's filing officer to fulfill any duty imposed under the Act will not relieve the person of any filing or disclosure obligation (regulation 18117).

The Political Reform Act has been amended numerous times since its initial approval by voters. FPPC commissioners and staff members constantly track new legislation affecting the Act, and the Commission may take positions on bills when it deems appropriate. Those involved in tracking and analyzing bills include the executive director, legislative and communications coordinator, executive fellow, Commission counsel and others.

On October 7, 2004, the Commission considered a staff

(Continued on page 20)

Fair Political Practices Commission Organization Chart March 2006



(Continued from page 18)

proposal to dedicate staff resources to the development of a pilot project to grant limited jurisdiction to the Commission over Government Code section 1090, et seq., through a three-year pilot project. The Commission directed staff to pursue the project legislatively.

The pilot project language was introduced as Assembly Bill 1558 (Wolk) in 2005. AB 1558 was approved by the state Assembly in early 2006 and is now pending in the Senate. The pilot project, as proposed, would not move or amend section 1090 of the Government Code, would run for a three-year period, would follow a process similar to the existing Commission opinion process as set forth in Commission regulations, and the Commission would need to be given sufficient additional funding to deal with the increased workload (including the educational component).

The FPPC hosted a variety of interested persons' meetings in 2005. Public comment was received on rulemaking subjects including affiliated entities and aggregation, designation of certain administrative enforcement decisions as having precedential value, and hard and soft money accounts.

Filing and code review duties

FPPC staff members received, logged, reviewed and filed 21,594 Statements of Economic Interests and Statements of Economic Interests amendments from public officials across California in 2005. These statements are public records and copies are made available by the Commission to the public upon request at no charge or, for larger orders, for a nominal copying fee.

In 2005, FPPC staff filled public requests for 5,174 copies of Statements of Economic Interests.

Designated employees and officeholders at virtually all state and local agencies, as well as candidates for public office, use the FPPC "Form 700" to file these personal financial statements. The FPPC reviewed and revised the Form 700 during 2005—an annual project.

"The Political Reform Act ("the Act") prohibits former state governmental officials, under certain conditions, from attempting to influence proceedings in which the official participated while serving in his or her capacity as a state governmental official. (Sections 87401 and 87402; regulation 18741.1.) This restriction is a "permanent ban" prohibiting a former state employee from "switching sides" and participating, for compensation, in any specific proceeding involving the State of California if the proceeding is one in which the former state employee *participated while employed by the state.*"

— From a 2005 Legal Division memorandum to the Commission

Many Statements of Economic Interests are not filed directly with the FPPC, but instead go to local or state agency filing officers or other officials.

Staff in the Technical Assistance Division also are responsible for reviewing conflict-of-interest codes for over 650 state and multi-county agencies. Every other year, agencies must review their conflict-of-interest code and submit changes to the FPPC.

Five political reform consultants review code changes as well as assist in preparing codes for new agencies and commissions that are formed.

Administration

In 2005, the FPPC's small Administration Division did everything necessary to maintain operations in an independent state agency. The division's services included:

- ◆ budget and financial management expertise
- ◆ public reception and communication
- ◆ computer networks and user support
- ◆ website technical support and development
- ◆ purchasing
- ◆ printing
- ◆ personnel services
- ◆ mailing and document receiving

The division chief is Robert Tribe.

Enforcement Summaries

March Commission Meeting

Campaign Money Laundering Violations

In the Matter of Pierce O'Donnell, FPPC No. 01/323. Staff: Senior Commission Counsel Melodee A. Mathay. Respondent Pierce O'Donnell, an attorney and partner in the Los Angeles law firm of O'Donnell & Shaeffer, LLP, was the true source of 26 campaign contributions, totaling \$25,500, made to James Hahn's campaign committee for the 2001 Los Angeles mayoral election. The contributions were made in the names of company employees, or their relatives and friends, in violation of Government Code section 84301 (26 counts). \$72,000 fine.

Campaign Reporting Violations (Default Decision)

In the Matter of Daniel Ricardo Gonzalez and Friends of Daniel R. Gonzalez, FPPC No. 02/375. Staff: Senior Commission Counsel Melodee A. Mathay. Respondent Daniel Ricardo Gonzalez was an unsuccessful Democratic State Senate candidate for the 19th District in the November 7, 2000 general election. Respondent Friends of Daniel R. Gonzalez was the controlled committee of Respondent Gonzalez. Respondents failed to timely file three semi-annual campaign statements after the November 2000 general election, in violation of Government Code section 84200, subdivision (a) (3 counts). \$10,000 fine.

Campaign Reporting Violations

In the Matter of Eric Barragan, Committee to Re-Elect Eric Barragan, and Oralia Razo, FPPC No. 02/859. Staff: Commission Counsel Amanda Saxton and Investigator III Leon Nurse-Williams. Respondent Eric Barragan

was a member of the Board of Trustees of the Santa Paula Union High School District from 1996 to 2004. Respondent Committee to Re-Elect Eric Barragan was his controlled committee, and Respondent Oralia Razo served as treasurer. Respondents failed to timely file two post-election semi-annual campaign statements, in violation of Government Code section 84200, subdivision (a) (2 counts). \$3,500 fine.

Late Contribution – Streamlined Program

Failure to Timely File Late Contribution Reports – Proactive Program. Chief Investigator Sue Straine and Political Reform Consultants Mary Ann Kvasager and Jeanette Turvill. The following entities have entered into a stipulation for failure to file late contribution reports in 2001, 2002, and 2004 in violation of Government Code Section 84203:

- ◆ **In the Matter of Fresno County Republican Central Committee, FPPC No. 04-391.** Fresno County Republican Central Committee of Fresno failed to timely disclose late contributions totaling \$45,000.00 in 2002 (2 counts). \$6,750 fine.
- ◆ **In the Matter of Steamfitters & Refrigeration U.A. Local 250 P.A.C., FPPC No. 05-253.** Steamfitters & Refrigeration U.A. Local 250 P.A.C. of Gardena failed to timely disclose late contributions totaling \$6,500.00 in 2001 and \$5,500 in 2002 (9 counts). \$1,800 fine.
- ◆ **In the Matter of Verboon, Milstein & Peter, FPPC No. 05-576.** Verboon, Milstein & Peter of Santa Monica failed to timely disclose late contributions totaling \$22,000.00 in 2004 (12 counts). \$3,300 fine.
- ◆ **In the Matter of Republican Central Committee of Imperial County, FPPC**

(Continued on page 22)

(Continued from page 21)

No. 04/464. Republican Central Committee of Imperial County failed to timely disclose five late contributions totaling \$75,749 (5 counts). \$11,362 fine.

- ◆ **In the Matter of Richard W. Selby and Affiliate Selby/Simon Partnership and R. W. Selby & Co. Inc, FPPC No. 06/039.** Richard W. Selby and Affiliate Selby/Simon Partnership and R. W. Selby & Co. Inc. of Los Angeles failed to timely file a semi-annual campaign statement disclosing contributions totaling \$24,000.00 in 2005 (1 count). \$400 fine.

Major Donor – Streamlined Program

Failure to Timely File Major Donor Campaign Statements. Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due during calendar years 2001, 2002, 2003 and 2004, in violation of Government Code Section 84200:

- ◆ **In the Matter of DuRard, McKenna & Borg, FPPC No. 05-736.** DuRard, McKenna & Borg of San Mateo failed to timely file semi-annual campaign statements disclosing contributions totaling \$18,350.00 in 2002 and \$18,400.00 in 2003 (3 counts). \$1,200 fine.
- ◆ **In the Matter of Benjamin P. Novello, FPPC No. 05-868.** Benjamin P. Novello of Tampa, Florida failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 in 2004 (1 count). \$400 fine.
- ◆ **In the Matter of Stanley Black and Black Equities, FPPC No. 06-091.** Stanley Black and Black Equities of Beverly Hills failed to timely file a semi-annual campaign statement disclosing contributions totaling \$18,600.00 in 2001 (1 count). \$586 fine.

- ◆ **In the Matter of Lawyers Committee for Civil Rights/Equal Justice Society, a project of LCCR, FPPC No. 06-097.** Lawyers Committee for Civil Rights/Equal Justice Society, a project of LCCR of San Francisco failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 in 2002 (1 count). \$400 fine.

Statement of Economic Interests Violations - SEI Streamlined Program

In the Matter of Edwin Mui, FPPC No. 05/482. Staff: Political Reform Consultant Wayne Imberi. Edwin Mui, an employee of the State of California, Department of Conservation, failed to timely file a 2004 annual statement of economic interests in violation of Government Code section 87300 (1 count). \$100 fine.

February Commission Meeting

Mass Mailing Violations

In the Matter of Jon Lauritzen, Jon Lauritzen for School Board, and Kinde Durkee, FPPC No. 03/231. Staff: Commission Counsel Amanda Saxton. Respondent Jon Lauritzen was a successful candidate for the Los Angeles Unified School District Board of Education in the March 4, 2003 primary election. Respondent Jon Lauritzen for School Board was his controlled committee, and Respondent Kinde Durkee served as its treasurer. In this matter, Respondents paid for and sent a mass mailer prior to the election that did not include proper sender identification, in violation of Government Code section 84305 (1 count). \$2,000 fine.

Campaign Reporting Violations

In the Matter of Consumer Attorneys Association of Los Angeles, FPPC No. 05/487. Staff: Chief of Enforcement John Appelbaum and Political Reform Consultant Jeanette Tur-

(Continued on page 23)

(Continued from page 22)

vill. Respondent Consumer Attorneys Association of Los Angeles qualified as a major donor committee in the second six months of 2004. Respondent failed to file a semi-annual campaign statement electronically, in violation of Government Code section 84605, subdivision (a); and failed to file three late contribution reports in violation of Government Code **section 84203, subdivision (a)** (4 counts). \$20,000 fine.

Statement of Economic Interests Violation - SEI Streamlined Program

In the Matter of Anita Grier, FPPC No. 05/469. Staff: Political Reform Consultant Wayne Imberi. Anita Grier, a member of the San Francisco Community College Board, failed to timely file a 2004 annual statement of economic interests in violation of Government Code section 87300 (1 count). \$100 fine.

In the Matter of Quynh Kieu, FPPC No. 04/538. Staff: Political Reform Consultant Jeanette Turvill. Quynh Kieu, a member of the Orange County Families and Children Commission's Technical Advisory Committee, failed to timely file a 2003 annual statement of economic interests in violation of Government Code section 87203. (1 count). \$250 fine.

Major Donor – Streamlined Program

Failure to Timely File Major Donor Campaign Statements. Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due during calendar years 2002, 2003 and 2004, in violation of Government Code Section 84200:

- ◆ **In the Matter of Yoshinoya West, Inc. d.b.a. Beef Bowl Restaurants, FPPC No. 05-817.** Yoshinoya West, Inc. d.b.a. Beef Bowl Restaurants of Torrance failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 in 2004 (1 count). \$400 fine.

- ◆ **In the Matter of Jeffrey S. Moorad, FPPC No. 05-836.** Jeffrey S. Moorad of Newport Beach failed to timely file a semi-annual campaign statement disclosing contributions totaling \$25,000.00 in 2004 (1 count). \$400 fine.
- ◆ **In the Matter of Gibson, Dunn & Crutcher, LLP, FPPC No. 05-852.** Gibson, Dunn & Crutcher, LLP of Los Angeles failed to timely file semi-annual campaign statements disclosing contributions totaling \$33,450.00 in 2002, \$15,950.00 in 2003 and \$11,650.00 in 2004 (3 counts). \$1,534.50 fine.
- ◆ **In the Matter of Cisco Systems, FPPC No. 06-001.** Cisco Systems of Mill Valley failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 in 2003 (1 count). \$400 fine.
- ◆ **In the Matter of L. Thomas Lakin, FPPC No. 06-025.** L. Thomas Lakin of Malibu failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 in 2003 (1 count). \$400 fine.

Late Contribution – Streamlined Program

Failure to Timely File Late Contribution Reports – Proactive Program. Chief Investigator Sue Straine and Political Reform Consultants Mary Ann Kvasager and Jeanette Turvill. The following entities have entered into a stipulation for failure to file late contribution reports in 2004, in violation of Government Code Section 84203:

- ◆ **In the Matter of Pac Pizza, FPPC No. 05-707.** Pac Pizza of San Ramon failed to timely disclose a late contribution totaling \$15,000.00 (1 count). \$2,250 fine.
- ◆ **In the Matter of The Arns Law Firm, FPPC No. 05/380.** The Arns Law Firm failed to timely disclose a late contribution totaling \$20,000 (2 counts). \$3,000 fine.

(Continued on page 24)

(Continued from page 23)

January Commission Meeting

Mass Mailing Violations

In the Matter of TME - AFSCME Local 1117 Political Action Committee, FPPC No. 02/158. Staff: Senior Commission Counsel Melodee A. Mathay. Respondent TME - AFSME Local 1117 Political Action Committee, a state general purpose recipient committee sponsored by TME-AFSCME Local 1117, is located in the City of Torrance. On February 27, 2002, Respondent sent two campaign mailers to Torrance voters prior to the March 5, 2002, Torrance municipal election that did not contain proper sender identification, in violation of Government Code section 84305, subdivision (a) (2 counts). \$4,500 fine.

Campaign Reporting Violations

In the Matter of Robert Egan, FPPC No. 02/012. Staff: Commission Counsel Galena West and Supervising Investigator Dennis Pellón. Respondent Robert Egan is the Chairman of the Board of Commissioners for the Saratoga Fire Protection District and a real estate broker in the City of Saratoga. In 2000, during the first semi-annual reporting period of January 1, 2000, through June 30, 2000, Respondent made \$27,801.00 in political contributions, in the form of loans, to support the passage of a local ballot measure, and thereby qualified as a "major donor committee." Respondent violated the Political Reform Act by failing to timely file a semi-annual campaign statement, in violation of section 84200, subdivision (b) of the Government Code (1 count). \$1,200 fine.

In the Matter of J. Taylor Crandall, FPPC No. 05/456. Staff: Chief of Enforcement John Appelbaum and Political Reform Consultant Jeanette Turvill. Respondent J. Taylor Crandall qualified as a major donor committee in the first six months of 2004. Respondent failed to file a

major donor campaign disclosure statement, in violation of Government Code section 84200, subdivision (b); failed to file a late contribution report in violation of Government Code section 84203, subdivision (a); and failed to properly disclose the making of contributions in a subsequently filed major donor statement, in violation of Government Code sections 84211, subdivision (k) and 84203, subdivision (b) (3 counts). \$15,000 fine.

In the Matter of the Italian Center, Inc., FPPC No. 03/516. Staff: Senior Commission Counsel Melodee A. Mathay. Respondent Italian Center, Inc. is a California corporation located in San Gabriel that failed to file a major donor semi-annual campaign statement by January 31, 2003, for the reporting period July 1, 2002 through December 31, 2002, in violation of Government Code section 84200, subdivision (b) (1 count). \$2,000 fine.

In the Matter of Scott Cook, FPPC No. 05/298. Staff: Commission Counsel Margaret Figeroid. Scott Cook of Mountain View failed to timely file five major donor campaign statements during reporting periods from January 1, 2001, through June 30, 2004, in violation of Government Code Section 84200, subdivision (b) (5 counts). \$20,000 fine.

In the Matter of California Campaign for New Drug Policies, Yes on Prop. 36 and Dave Fratello, FPPC No. 02/1059. Staff: Commission Counsel Amanda Saxton and Investigator III Leon Nurse-Williams. Respondent California Campaign for New Drug Policies, Yes on Prop. 36 was a recipient ballot measure committee primarily formed to support the qualification of Proposition 36 for the ballot and its passage in the 2000 general election. Respondent Dave Fratello served as the treasurer of Respondent California Campaign for New Drug Policies, Yes on Prop. 36. Respondents failed to report required information regarding expenditures totaling \$1,412,285 made to sub-vendors in violation of Government Code section 84303 (5 counts); failed to accurately report the total amount of expenditures made during a campaign period as well as the cumulative amount of expenditures

(Continued on page 25)

(Continued from page 24)

made as of the closing date for that reporting period in violation of Government Code section 84211, subdivision (b) (1 count); and failed to report specific information relating to persons to whom an expenditure of \$100 or more was made in violation of Government Code section 84211, subdivision (j) (1 count). \$12,000 fine.

Disqualification Violation

In the Matter of Dennis Hansberger, FPPC No. 03/663. Staff: Commission Counsel Margaret Figeroid. County of San Bernardino Supervisor Dennis Hansberger, while serving as an appointed member of the Inland Valley Development Agency and the San Bernardino International Airport Authority, violated section 84308, subdivision (b) by accepting a contribution of more than \$250 from a party to proceedings involving the award of contracts within three months following the date final decisions were rendered in those proceedings (2 counts). \$6,000 fine.

Gift Limit Violation

In the Matter of Michael Peevey, FPPC No. 03/104. Staff: Commission Counsel Amanda Saxton and Investigator III Leon Nurse-Williams. As the President of the California Public Utilities Commission, Respondent accepted gifts in excess of the annual gift limit, in violation of Government Code section 89503, subdivision (a) (1 count). \$500 fine.

Statement of Economic Interests Violations - SEI Streamlined Program

In the Matter of Charles Drake, FPPC No. 05/407. Staff: Enforcement Political Reform Consultant Jeanette Turvill. Charles Drake, a member of the City of Marina Planning Commission, failed to timely file a 2004 annual statement of economic interests, in violation of Government Code section 87203 (1 count). \$100 fine.

In the Matter of Dale White, FPPC No. 05/423. Staff: Enforcement Political Reform Consultant Wayne Imberi. Dale White, a member of the

Grass Valley Planning Commission, failed to timely file a 2004 annual statement of economic interests in violation of Government Code section 87203 (1 count). \$100 fine.

In the Matter of Vance McAlister, FPPC No. 05/415. Staff: Enforcement Political Reform Consultant Wayne Imberi. Vance McAlister, a member of the Imperial Planning Commission, failed to timely file a 2004 annual statement of economic interests in violation of Government Code section 87203 (1 count). \$100 fine.

Major Donor – Streamlined Program

Failure to Timely File Major Donor Campaign Statements. Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following entities have entered into a stipulation for failing to file a major donor campaign statement that was due during calendar years of 2001, 2002, 2003, and 2004, in violation of Government Code Section 84200:

- ♦ **In the Matter of Professional Exchange Service Corporation, FPPC No. 05/458.** Professional Exchange Service Corporation of Fresno failed to timely file a semi-annual campaign statement disclosing contributions totaling \$144,804.62 in 2004 (1 count). \$1,848 fine.
- ♦ **In the Matter of Pacific Cement, FPPC No. 05/600.** Pacific Cement of San Francisco failed to timely file semi-annual campaign statements disclosing contributions totaling \$19,250.00 in 2002 (2 counts) and \$36,200.00 in 2003 (2 counts). \$1,600 fine.
- ♦ **In the Matter of Pac Pizza, FPPC No. 05/708.** Pac Pizza of San Ramon failed to timely file a semi-annual campaign statement disclosing contributions totaling \$15,000.00 in 2004 (1 count). \$400 fine.
- ♦ **In the Matter of Tracy Snyder, FPPC No. 05/709.** Tracy Snyder of New York, New York, failed to timely file a semi-annual campaign statement disclosing contributions to-

(Continued on page 26)

(Continued from page 25)

taling \$10,000.00 in 2004 (1 count). \$400 fine.

- ♦ **In the Matter of Jay Snyder, FPPC No. 05/710.** Jay Snyder of New York, New York, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$15,000.00 in 2004 (1 count). \$400 fine.
- ♦ **In the Matter of Caremark RX, FPPC No. 05/805.** Caremark RX of Nashville, Tennessee, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$25,000.00 in 2004 (1 count). \$400 fine.
- ♦ **In the Matter of Chris T. Sullivan, FPPC No. 05/810.** Chris T. Sullivan of Tampa, Florida, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 in 2004 (1 count). \$400 fine.
- ♦ **In the Matter of Cuneo Gilbert & Laduca, LLP, FPPC No. 05/811.** Cuneo Gilbert & Laduca, LLP of Washington, DC, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$25,000.00 in 2004 (1 count). \$400 fine.
- ♦ **In the Matter of Lucent Technologies, Inc., FPPC No. 05/813.** Lucent Technologies, Inc. of Vienna, Virginia, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$25,000.00 in 2004 (1 count). \$400 fine.
- ♦ **In the Matter of Triumph Mortgage, Inc., FPPC No. 05/815.** Triumph Mortgage Inc. of Irvine failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 in 2004 (1 count). \$400 fine.
- ♦ **In the Matter of Panda Restaurant Group and Its Owners, Andrew and Peggy Cherng, FPPC No. 05/839.** Panda Restaurant Group and Its Owners, Andrew and

Peggy Cherng of Rosemead failed to timely file semi-annual campaign statements disclosing contributions totaling \$16,000.00 in 2001 (2 counts) and \$67,240.00 in 2002 (1 count). \$1,987.40 fine.

- ♦ **In the Matter of Frank J. Biondi, Jr., FPPC No. 05/853.** Frank J. Biondi, Jr. of Los Angeles failed to timely file a semi-annual campaign statement disclosing contributions totaling \$11,000.00 in 2001 (1 count). \$400 fine.
- ♦ **In the Matter of Harvey Wm. Glasser, FPPC No. 05/854.** Harvey Wm. Glasser of San Francisco failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 in 2002 (1 count). \$400 fine.
- ♦ **In the Matter of Pro Staff, FPPC No. 05/855.** Pro Staff of Minneapolis, Minnesota,

(Continued on page 27)



FPPC
Toll-free Advice Line:
1-866-ASK-FPPC
(1-866-275-3772)

(Continued from page 26)

failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 in 2002 (1 count). \$400 fine.

- ◆ **In the Matter of American Xtal Technology, Inc., FPPC No. 05/856.** American Xtal Technology, Inc. of Fremont failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 in 2001 (1 count). \$400 fine.
- ◆ **In the Matter of Allan K. Jonas, FPPC No. 05/857.** Allan K. Jonas of Los Angeles failed to file semi-annual campaign statements disclosing contributions totaling \$30,450.00 in 2002 (2 counts); \$32,000.00 in 2003 (2 counts); and \$27,250.00 in 2004 (2 counts). \$3,059.50 fine.
- ◆ **In the Matter of Johnson Canyon Holdings, LLC, FPPC No. 05/858.** Johnson Canyon Holdings, LLC of Beverly Hills failed to timely file a semi-annual campaign statement disclosing \$12,500.00 in 2002 (1 count). \$400 fine.
- ◆ **In the Matter of William Cramer, FPPC No. 05/867.** William Cramer of Anaheim failed to timely file a semi-annual campaign statement disclosing \$10,000.00 in 2001 (1 count). \$400 fine.
- ◆ **In the Matter of Ultramar Diamond Shamrock Corporation, FPPC No. 05/876.** Ultramar Diamond Shamrock Corporation of Mill Valley failed to timely file semi-annual campaign statements disclosing \$42,975.00 in 2001 (2 counts). \$800 fine.
- ◆ **In the Matter of American Health Care Association, FPPC No. 06/006.** American Health Care Association of Washington, DC, failed to timely file a semi-annual campaign statement disclosing \$15,000.00 in 2002 (1 count). \$400 fine.
- ◆ **In the Matter of Richard Wollack, FPPC No. 06/007.** Richard Wollack of Napa failed

to timely file a semi-annual campaign statement disclosing \$11,252.91 in 2002 (1 count). \$400 fine.

Late Contribution – Streamlined Program

Failure to Timely File Late Contribution Reports – Proactive Program. Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failure to file late contribution reports in 2004, in violation of Government Code Section 84203:

- ◆ **In the Matter of Edison International and Affiliated Entities, FPPC No. 05/561.** Edison International and Affiliated Entities of Rosemead failed to timely disclose a late contribution totaling \$100,000.00 (1 count). \$3,500 fine.
- ◆ **In the Matter of Lee Andrews Group, Inc., FPPC No. 05/562.** Lee Andrews Group, Inc. of Los Angeles failed to timely disclose a late contribution totaling \$10,000.00 (1 count). \$1,500 fine.
- ◆ **In the Matter of Amir Salimzadeh (a.k.a. Joseph Salim), FPPC No. 05/711.** Amir Salimzadeh (a.k.a. Joseph Salim) of New York, New York, failed to timely disclose a late contribution totaling \$10,000.00 (1 count). \$1,500 fine.

(Continued on page 28)

FPPC
Toll-free Advice Line:
1-866-ASK-FPPC
(1-866-275-3772)

(Continued from page 27)

- ◆ **In the Matter of Caremark RX, FPPC No. 05/794.** Caremark RX of Nashville, Tennessee, failed to timely disclose a late contribution totaling \$25,000.00 (1 count). \$3,500 fine.
- ◆ **In the Matter of Cuneo Gilbert & Laduca, LLP, FPPC No. 05/812.** Cuneo Gilbert & Laduca, LLP of Washington, DC, failed to timely disclose a late contribution totaling \$25,000.00 (1 count). \$3,500 fine.
- ◆ **In the Matter of Lucent Technologies, Inc., FPPC No. 05/814.** Lucent Technologies, Inc. of Vienna, Virginia, failed to timely disclose a late contribution totaling \$25,000.00 (1 count). \$3,500 fine.
- ◆ **In the Matter of Triumph Mortgage, Inc., FPPC No. 05/816.** Triumph Mortgage, Inc. of Irvine failed to timely disclose a late contribution totaling \$10,000.00 (1 count). \$1,500 fine.

Consideration of Administrative Law Judge Proposed Decision

In the Matter of Allen K. Settle, FPPC No. 99/804. Staff: Senior Commission Counsel Melodee A. Mathay and Investigator III Sandra Buckner. Respondent Allen K. Settle is currently a member of the San Luis Obispo City Council, having served as the city's mayor from 1994 through 2002. In this matter, Respondent Settle violated the conflict of interest provisions of the Political Reform Act in April 1999 and September 1999, by making and participating in making three governmental decisions which had a reasonably foreseeable material financial effect on his interest in real property. By failing to disqualify himself from these governmental decisions, Respondent Settle committed three violations of Government Code section 87100 (3 counts). Following a two-day administrative hearing in San Luis Obispo, Presiding Administrative Law Judge Humberto Flores issued a proposed decision finding that three violations occurred, and

imposing a maximum administrative penalty of \$6,000. The Enforcement Division requested that the Commission accept the proposed decision in its entirety. Respondent filed a written opposition in response to that request, and the Enforcement Division filed a reply brief. The Commission adopted the proposed decision of the administrative law judge.



Legislative Update

The following information on legislation is condensed from the Legislative Report prepared for the March 14, 2006, Commission meeting. For the complete report, please see the meeting agenda on our website at:

<http://www.fppc.ca.gov/index.html?id=329>

Current updates on bills can be found on the FPPC's website at :

<http://www.fppc.ca.gov/index.html?id=365>

AB 1391 (Leno) would clarify whether a general purpose committee is a state, county or city general purpose committee. Recent amendments add additional layers of Statement of Economic Interests income disclosure to include categories from \$100,000 to \$2 million. These amendments also expand upon an existing prohibition against personal use of campaign funds.

AB 2776 (Plescia) would allow radio advertisements for ballot measures to disclose contributor information by a recording accessible by toll-free telephone call instead of by the current requirement that the disclosure be spoken at the end of the ad.

AB 1568 (Torrico) would prohibit a member or employee of a retirement board, established pursuant to the County Employees Retirement Law

of 1937, from selling or providing any investment product to the retirement system. It would require these boards to provide ethics trainings to all members if the board provides compensation, salary, stipend, or expense reimbursement to the members. If curricula are developed by the board, then it must consult with the Fair Political Practices Commission and the Attorney General regarding the sufficiency and accuracy of the proposed content. (This consultation provision is similar to that in AB 1234, which was chaptered in 2005.)

AB 2112 (Karnette). This Commission-sponsored bill would reduce the number of 120-day demands that may be filed by an individual or group to 10 within any previous 12-month period and specify that a civil action by the individual or group is prohibited if the Commission issues an administrative order or publishes a declaration of no violation. It would require that the individual or group notify the respondent when a demand is made. The bill would also require that a court consider Commission rules and regulations in determining a judgment amount in cases brought under the civil action provisions.

AB 2219 (Torrico) would require all committee accounts regulated by the Political Reform Act to collect the interest accrued by these accounts and pay the collected amount to the State Treasury for appropriation to the Commission. These appropriated funds would be in addition to appropriations already specified in the Act for the Commission and could be expended only to carry out the parts of the Act that regulate electoral and campaign processes relating to ballot propositions.

AB 2269 (Hancock) would establish a process for amending a qualified initiative measure and require that a notice be placed at the top of each statewide ballot initiative petition to state that the proponent may amend the measure at a later time. The bill also requires the Attorney General to identify and place notice on measures that conflict with each other, and it requires the Sec-

(Continued on page 30)

...Legislative Update

(Continued from page 29)

retary of State to group these measures together in the same part of the ballot.

AB 2363 (Nation). Existing law requires that campaign statements be filed with the Secretary of State in the form of an original and one copy of the statement. This bill would eliminate the “and one copy” requirement. This will be the vehicle for the Secretary of State to implement its Task Force recommendations.

AB 2432 (Montanez) would add additional layers of Statement of Economic Interests disclosure categories for reporting income and investments or interests in real property. The new categories range from \$50,000 to \$10 million or more.

AB 2574 (Nunez) would require the Commission to review the lobbying provisions of the Political Reform Act and make recommendations to the Assembly and Senate Elections Committees by December 31, 2007, as to whether changes should be made to those provisions to better serve the purposes of the Act.

AB 2627 (Karnette) would designate the county board of education instead of the county board of supervisors as the conflict of interest code reviewing body for a school district in a multi-district county, a community college district, a county office of education, or a school-related joint powers authority located wholly within a single county. It would also designate the Superintendent of Public Instruction as the code reviewing body for a county board of education, a county office of education of a county with only a single school district, or a school district of a county with only a single school district.

AB 2771 (Leno) would make findings and declarations of the Legislature regarding the failure of the Secretary of State to provide free online or

electronic filing for entities required to file online or electronically by the Political Reform Act. The bill would delete the current limitation on the Secretary of State’s ability to provide additional or enhanced functions or services for free online or electronic filing. The bill would also delay the online or electronic filing requirements for certain general purpose committees and slate mailer organizations with cumulative contributions and expenditures less than \$50,000 over 3 years until January 1, 2010, or until the first filing due more than 6 months after the Fair Political Practices Commission has certified that the free online filing processes developed by the Secretary of State are sufficiently simple to access and use.

AB 2801 (Saldaña). This Commission-sponsored bill would create an expedited procedure to obtain a judgment to collect unpaid fines imposed by the Commission.

AB 2902 (Nunez) would require the Secretary of State to include in its report to the Legislature a discussion of the development of a method of online disclosure that is free of charge to the filers and to maintain online filings for 10 years, after which the information must be archived.

AB 2964 (Levine) would require that a late expenditure be reported within 12 hours rather than the currently required 24-hour time period.

AB 2974 (Wolk) would add to the lobbying disclosure required in quarterly reports a separate accounting of payments of over \$1,000 made to another firm or person for purposes of influencing legislative or administrative action or communicating with any elective state official, legislative official, or agency official.

AB X1 8 (Umberg) would require the cover of the ballot pamphlet for any statewide special election called by the Governor on a redistricting initiative measure to include an estimate by the Legislative Analyst’s Office of the costs to the state and local governments to conduct the special election.

(Continued on page 31)

...Legislative Update

(Continued from page 30)

SB 1265 (Alquist) would add layers of Statement of Economic Interests disclosure categories for reporting income to a business entity. The new categories range from \$10,000 to \$1 million or more. It would also require SEI filers to file online or electronically as required by the Secretary of State. The bill provides that the Secretary of State shall consult with the Commission to develop the process for online or electronic filing by July 1, 2007.

SB 1354 (Dunn) would require a corporation that directly or indirectly makes political contributions or expenditures to report those contributions or expenditures to shareholders and to refund to objecting shareholders or to charity a pro rata share of those contributions or expenditures, based on the shareholders' proportionate ownership interests. It would require corporations to maintain records of the reports on these political contributions or expenditures for five years, and make them available to the Commission on request.

SB 1459 (Simitian) would enact the Insurance Commissioner Election Accountability Act of 2006, which would authorize eligible Insurance Commissioner candidates to obtain public financing from a fund made up of fees collected from insurers, reimbursements, and interest, provided that certain thresholds of public support are shown. The bill would impose responsibility for its administration on the Fair Political Practices Commission and provide specified penalties for violations of its provisions. This bill would require the Secretary of State to submit the provisions of this bill that amend the Political Reform Act to the voters for approval at the June 3, 2008, statewide primary election.

SB 1579 (Committee). This Commission-sponsored bill would delete an obsolete cross-reference to a section that was repealed in 2000.

This bill will be amended to add the following two Commission-sponsored provisions: 1) an amendment to clarify the treatment of a reference to a repealed provision regarding office-holder accounts, and 2) an amendment to the definition of "investment" to exclude defined benefit pension plans.

SB 1693 (Murray). This Commission-sponsored bill would increase the major donor reporting threshold, from \$10,000 to \$30,000. It would also increase the threshold for major donor notification from \$5,000 to \$15,000.

SB 1757 (Ortiz) would give Commission investigators the power to arrest when their primary duty is to enforce and investigate violations of the Political Reform Act.

SB 1760 (Bowen). This Commission-sponsored bill would expressly authorize the Franchise Tax Board and Commission to audit electronically filed reports and statements.

AB 583 (Hancock) would enact the California Clean Money and Fair Elections Act of 2006, which would authorize eligible candidates, as defined, to obtain public funds according to specified procedures and requirements, provided that certain thresholds are attained. It would add contribution limits that limit contributions to a candidate for statewide elective office who does not participate in Clean Money Fund funding. The bill would impose responsibility for the administration of the provisions of the bill on the Fair Political Practices Commission. It would also create the Clean Money Fund, and commencing on July 1, 2008, would transfer an amount per California resident 18 years of age or older, from the General Fund to the Clean Money Fund for the purpose of the public financing provisions of this act. This bill would make funding for the administrative and enforcement costs of the act subject to the appropriation by the Legislature.

AB 709 (Wolk) would impose a \$5,600 limit on contributions to ballot measure committees con-

(Continued on page 32)

...Legislative Update

(Continued from page 31)

trolled by elective state office candidates. Primarily formed ballot measure committees would be subject to the post-election fundraising restrictions in the Act. The bill would aggregate contributions to multiple ballot measure committees in support of, or in opposition to, the same ballot measure that are controlled by the same state candidate. It would also require the Secretary of State to submit the bill's provisions to the voters at the November 8, 2005 election.

AB 1558 (Wolk). This Commission-sponsored bill would initiate a pilot project to allow the Commission to fully respond to conflict of interest advice-seeking public officials by discussing not only the law under the Commission's jurisdiction but also a related Government Code provision (section 1090) under which the official could potentially be liable.

AB 1759 (Umberg) would require committees other than primarily formed committees to disclose contributions or independent expenditures totaling \$5,000 or more to support or oppose the qualification or passage of a single state ballot measure within 10 business days of making the contribution or independent expenditure. The bill intends to close loophole that allows ballot measure proponents to delay disclosing their financial supporters by funding a ballot measure campaign through a general purpose committee. The contents of this bill are almost identical to AB 938 (Umberg), which passed both houses and was vetoed by the Governor. However, AB 1759 appears to address the Governor's veto message by lowering the threshold of \$10,000 (as it appeared in AB 938) to \$5,000 as it currently reads in AB 1759.

SB 11 (Bowen) would prohibit a candidate for elective state or local office from accepting any

contributions from a manufacturer or vendor of voting equipment or systems. This bill also would amend the Elections Code to declare that the Secretary of State cannot serve as an officer of a political party or partisan organization, or support or oppose any candidate or ballot measure.

SB 145 (Murray) would authorize an elected state officer to accept contributions after the date of the election to the office presently held for the purpose of paying expenses associated with holding office or for any other purpose authorized by the Political Reform Act of 1974, subject to certain limitations. The bill would set limits on the amount of contributions that may be made to an elected state officer in a calendar year and on the aggregate amount of contributions that a state officer may receive in a calendar year.

SB 784 (Committee) would extend the reporting threshold and deadline for payments for legislative, governmental, or charitable purposes made "at the behest of" an elected official from \$5,000 to \$7,000 and from 30 days to 90 days, respectively. It would also specify that such a payment made in response to a press release, interview, or other media-related communication from an elected official is not required to be reported. In addition, it would add that an elected official is required to report such a payment only if he or she knows, or has reason to know, that a payment was made at his or her behest.

SB 1120 (Ortiz) would increase Commission funding to an annual appropriation of \$9,000,000. It would also specify that if a provision of the Political Reform Act is successfully challenged, any attorney's fees and costs shall be paid from the General Fund and the Commission's budget shall not be reduced accordingly. If passed, the bill would take effect on July 1, 2007.



Litigation Report

Here is a report on pending litigation prepared for the Commission's March 14, 2006, meeting:

California ProLife Council, Inc. v. Karen Getman et al.

This action challenged the Act's reporting requirements for express ballot measure advocacy. In October 2000 the Federal District Court for the Eastern District of California dismissed certain counts and later granted the FPPC's motion for summary judgment on the remaining counts. Plaintiff appealed, and the Ninth Circuit Court of Appeal affirmed that the challenged statutes and regulations were not unconstitutionally vague, and that California may regulate ballot measure advocacy upon demonstrating a sufficient state interest in so doing. However, the Ninth Circuit remanded the matter back to the district court to determine whether California could in fact establish an interest sufficient to support its committee disclosure rules, and that its disclosure rules are properly tailored to that interest. On February 22, 2005, the court granted defendants' motion for summary judgment on these questions. Plaintiff again appealed. The parties, and amici who have filed two briefs supporting defendants, have now completed the appellate briefing, and expect that the appeal will be heard and decided in mid-2006.

FPPC v. Agua Caliente Band of Cahuilla Indians, et al.

The FPPC alleges in this action that the Agua Caliente Band of Cahuilla Indians contributed more than \$7.5 million to California candidates and ballot measure campaigns between January 1 and December 31, 1998, but did not timely file major donor reports disclosing those contributions, and likewise failed to disclose more than \$1 million in late contributions made between July 1, 1998, and June 30, 2002. The

FPPC later amended the complaint to add a cause of action alleging that the tribe failed to disclose a \$125,000 contribution to the Proposition 51 campaign on the November 5, 2002 ballot. Defendants responded to the lawsuit by filing a motion to quash service, alleging that they could not be civilly prosecuted because of tribal sovereign immunity. On February 27, 2003, the Honorable Loren McMaster of the Sacramento County Superior Court ruled in the FPPC's favor. Defendants filed a petition for writ of mandate in the Third District Court of Appeal, challenging the decision of the trial court. The petition was summarily denied on April 24, 2003, whereupon defendants filed a petition for review in the California Supreme Court. On July 23, 2003, the Supreme Court granted review and transferred the case back to the Court of Appeal. On March 3, 2004, the Court of Appeal affirmed the Superior Court's decision, concluding that "the constitutional right of the State to preserve its republican form of government trumps the common law doctrine of tribal immunity." On April 13, 2004, defendants filed a Petition for Review in the California Supreme Court. On June 23, 2004, the Supreme Court granted the Petition for Review. On September 23, 2004, defendants filed an opening brief with the Supreme Court. The FPPC filed its opposition brief on December 30, 2004, and on April 1, 2005, defendants filed a closing brief. Amicus briefs have been filed by a number of interested parties.

FPPC v. Santa Rosa Indian Community of the Santa Rosa Rancheria

In this action the FPPC alleges that the Santa Rosa Indian Community of the Santa Rosa Rancheria failed to file major donor semi-annual campaign statements in the years 1998, 1999, and 2001, involving more than \$500,000 in political contributions to statewide candidates and propositions, and that defendants failed to disclose more than \$350,000 in late contributions made in October 1998. The complaint was originally filed on July 31, 2002, and was amended on October 7, 2002. On January 17, 2003, defendants filed a motion to quash service, based on its claim of tribal sovereign immunity. On May 13, 2003, the Honorable Joe S. Gray of the Sacramento County Superior Court entered an order in favor of defendants. On July 14, 2003, the FPPC

(Continued on page 34)

...Litigation Report

(Continued from page 33)

appealed this decision to the Third District Court of Appeal, where the matter was scheduled for oral argument. The Attorney General filed an amicus brief in support of the FPPC's position. The court heard oral argument on October 19, 2004, and on October 27, 2004, issued a decision in favor of the Commission overturning the trial court's granting of defendant's motion to quash. The tribe filed a petition for review with California Supreme Court which was granted on January 12, 2005. However, any action on the case has been deferred pending the outcome of the Agua Caliente case.

Citizens to Save California, et al. v. FPPC

On February 8, 2005, Citizens to Save California and Assembly Member Keith Richman filed a Complaint for injunctive and declaratory relief in Sacramento Superior Court challenging the Commission's adoption of regulation 18530.9 in June, 2005, which imposed on candidate-controlled ballot measure committees the contribution limit applied to the controlling candidate. Plaintiffs claim that the regulation violates the First Amendment, and that the Commission lacked statutory authority to adopt the regulation. Another group of plaintiffs led by Governor Schwarzenegger intervened in the action, and the court granted plaintiffs' motion for preliminary injunction, barring FPPC enforcement of regulation 18530.9 pending final disposition of the lawsuit. The Commission appealed, noting that the Superior Court's injunction was stayed while the appeal was pending. On April 25, the Superior Court determined that its injunction remained in effect, and a writ petition challenging this finding in the Court of Appeal was denied. Ruling next on the Commission's demurrer to the complaints, on May 26 Judge Chang indicated that further proceedings in the Superior Court were stayed pending resolution of the Commission's appeal of the preliminary injunction. The parties have completed their appellate briefing and now await assignment of a hearing date.

FPPC v. Democratic National Committee, Non-federal-Corporate et al.

In a lawsuit filed in the Sacramento Superior Court on February 25, 2005, the FPPC alleges

that a California campaign committee sponsored by the national Democratic Party committee, and the treasurers of that committee, failed to file a campaign statement disclosing \$1.2 million in contributions to the California Democratic Party. Defendants filed an answer to the complaint, and a cross-complaint against the FPPC seeking declaratory and injunctive relief. The cross-complaint alleges that Government Code section 83115.5 requires the FPPC to hold a probable cause conference prior to instituting a civil enforcement action against a prospective defendant. The cross-complaint also alleges that FPPC regulation 18361.8, which defendants interpret as eliminating the procedures for bringing a civil action, violates a respondent's right to due process. On May 5, 2005, the Commission filed a demurrer to the cross-complaint, which was affirmed without leave to amend at hearing on June 23, when the court concluded that due process did not require a probable cause conference prior to commencement of a civil action, nor any other proceedings beyond the protections afforded to all litigants. On July 7, 2005, the court issued its final order in the matter, dismissing the cross-complaint.

On September 2, 2005, DNC sought a stay before the Superior Court based upon an anticipated appeal of the dismissal of its cross-complaint, which the court denied the same day. On September 8, DNC filed its notice of appeal, and on September 16, 2005, the FPPC filed a motion to dismiss the appeal, which was granted by the Court of Appeal on October 7, 2005. On September 15, 2005, the court sent the matter to non-binding arbitration. On December 22, 2005, the parties appeared at a non-binding judicial arbitration and settlement conference.

FPPC v. Chad M. Condit, et al.

On January 10, 2006, the FPPC filed suit against Chad Condit, Cadee Condit, and the Justice PAC. The suit seeks civil penalties against Chad Condit and the Justice PAC for violation of the Act's personal use provisions and its prohibition on cash expenditures. The suit also seeks civil penalties against Cadee Condit for violation of the personal use provisions.

FPPC Advice Summaries

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance may be provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an "A," while informal assistance is identified by the letter "I." Letters are summarized by subject matter and month issued.

Campaign

C. April Boling
Richman for Treasurer
Dated: December 21, 2005
File Number A-05-188

A candidate committee for an elective state office which has received funds transferred to it from the candidate's legislative committee may transfer funds back to the legislative committee in order to pay a debt of the legislative commit-

tee that became known after the initial transfer to the state committee. However, this second transfer (the transfer back) must be made consistent with the LIFO or FIFO accounting method as applied to contributors to the state committee.

Rachel G. Clark
City of San Bernardino
Dated: December 6, 2005
File Number A-05-234

In connection with a February 7, 2006, runoff election, City of San Bernardino candidates and committees may use a filing schedule that combines the semi-annual statement with the second pre-election statement due on January 26, 2006.

Ion B. Meyn
The Sutton Law Firm
Dated: December 20, 2005
File Number A-05-242

An entity that is a parent of various subsidiary entities which all make political contributions is advised that for purposes of identifying the various entities on its Major Donor reports where contributions are aggregated under the provisions of the Act, that it need only provide information, under the "name of donor" entry, which states that the reports include aggregated contributions of other entities as long as the name of each entity and the amount of its contribution is included in the body of the report.

Tom Harman
Senate 35th District
Dated: December 21, 2005
File Number A-05-248

An assembly member may not redesignate his 2008 committee for a 2006 election to the same office. He must file a separate Candidate Intention Statement (Form 501) for the 2006 election, and must establish a separate committee and bank account for that office. Moreover, contributions received and expenditures made for the 2008 election cannot be recharacterized as contributions and expenditures for the 2006 election.

(Continued on page 36)

(Continued from page 35)

Marie Michel Macias
City of Pomona
Dated: December 23, 2005
File Number A-05-250

Candidates and committees involved in a special city election to be held on January 10, 2006, may combine the second semi-annual statement for 2005 with the first semi-annual statement for 2006. The statement will cover the period December 25, 2005, through June 30, 2006, and be due on July 31, 2006.

Kathryn E. Donovan
Pillsbury Winthrop Shaw Pittman, LLP
Dated: November 3, 2005
File Number A-05-207

Insofar as a local campaign ordinance requires the filing of reports that are additional to or different from those already imposed on state general purpose committees under the Act, the disclosure requirements are preempted by section 81009.5 of the Act.

Dominick V. Spatafora
NORCAL
Dated: November 21, 2005
File Number A-05-208

Contributions to a PAC by employees of an insurance company will be considered contributions made by the insurance company, with the employee as intermediary, when the employees act under a company program which compensates them with paid time off.

Conflicts of Interest

Alan J. Smith
City of Watsonville
Dated: December 13, 2005
File Number A-05-205

A local city attorney is advised on behalf of two city council members on the permissible methods for the officeholders to raise funds to pay for the officeholders' trip to Pinghu China to explore a sister-city relationship on behalf of the city.

Becky Hill
City of Corning
Dated: December 29, 2005
File Number A-05-222

The vice mayor, a real estate sales agent whose husband owns a real estate business, sought advice as to whether she may participate in decisions involving the creation of landscape and lighting districts within the city and whether she may participate in decisions involving the setting of amounts for commercial and residential developer fees charged by the city. The official may participate in the decisions provided the decisions will not have a reasonably foreseeable material financial effect on her economic interests.

Robin Dufault
McCormick, Kidman & Behrens, LLP
Dated: December 6, 2005
File Number A-05-223

A city planning commissioner with a conflict of interest in a development project sought advice as to whether she may address the planning commission and/or the city council regarding the development project in the capacity of a private citizen with regard to her personal property interests, which would be affected by the development. The official also sought advice regarding whether her spouse, who is not a public official, may express his views regarding the proposed development. The official may appear before the planning commission and/or the city council *only* if her appearance is to represent herself on matters related solely to her personal interests. In addition, her spouse may express his views regarding the development project because he is not a public official and therefore is not subject to the provisions of the Act.

Gregg Payne
City of Chico
Dated: December 13, 2005
File Number I-05-228

A city arts commissioner sought advice as to whether a conflict of interest would exist if he completed a park project that was funded and approved through the city's parks commission prior to his appointment. The Act's conflict-of-

(Continued on page 37)

(Continued from page 36)

interest provisions do not restrict or prohibit any specific private conduct, thus the official is not prohibited from completing the project. However, the official was informed that other laws such as Government Code section 1090 may apply.

John R. Shaw
Woodruff, Spradlin & Smart
Dated: December 15, 2005
File Number A-05-232

A city is in discussions with a state agency regarding a "cooperative agreement" between the city and the state agency to design a freeway exit in the city limits. One council member is currently a defendant in unrelated litigation in another jurisdiction filed by the state agency. So long as the city council decision on the agreement will not have a reasonably foreseeable material financial effect on the council member, the council member's business, or any source of income to the council member, no conflict of interest will exist.

Elizabeth Wagner Hull
City of Chula Vista
Dated: December 14, 2005
File Number A-05-233

A supermajority of four of the five city council members is needed for a vote appropriating funds for a major city project. One of the council members has a conflict. Another has been seriously ill since August 2005 and it is not known when she may return to her duties. The disqualified official may participate in the decision to appropriate additional funds for the city project under the exception for legally required participation. Although the council member may participate fully in deliberations regarding the matter, he may not attempt to influence the outcome through private discussions with other members or staff.

John D. Bakker
Meyers, Nave, Riback, Silver & Wilson
Dated: December 14, 2005
File Number I-05-235

A mayor employed as a consultant by a firm which installs residential solar energy systems

may have a conflict of interest in decisions regarding an energy conservation ordinance, if it is reasonably foreseeable that the ordinance will have a material financial effect on the firm, which is a source of income to the mayor. The answer in this case depends on the foreseeable range of variation in the market for such systems, which the official will have to determine from the facts available to him at the time of the decision.

Bill Emmerson
California State Assembly
Dated: December 5, 2005
File Number A-05-237

A city council member's position as a salaried employee of a university does not create a disqualifying conflict of interest that prevents her from participating in a decision to implement a homebuyers assistance program for the university's faculty because she is not eligible for the program.

Ann R. Danforth
Town of Tiburon
Dated: December 28, 2005
File Number A-05-238

Where a quorum cannot be convened because two planning commissioners have a conflicts of interest and there is a vacant seat on the commission, the "legally required participation" use may be invoked. This is because the decision is required to be made on or before January 20, 2006, and the town cannot fill the vacancy on the planning commission by that date.

Lynette Busby
City of Martinez
Dated: November 3, 2005
File Number A-05-159

A prospective member of a city planning commission is advised that she may not vote on, or otherwise make, participate in making, or use her official position to influence a decision on a downtown specific plan due to her ownership of real property in the area covered by the specific plan.

(Continued on page 38)

(Continued from page 37)

Mike Fitzpatrick

City of Anderson

Dated: November 18, 2005

File Number I-05-198

A mayor may participate in decisions directly affecting the county, where the county is a source of income to the mayor's private company, but only so long as the decisions will benefit the county as a whole, and will not uniquely affect the mayor.

Lori J. Barker

City of Chico

Dated: November 14, 2005

File Number A-05-203

A city attorney sought advice as to whether a conflict of interest would exist if a city council member participated in decisions involving improvements to facilities within a medical campus that is within 500 feet of property owned by the official's spouse. It is presumed that the material effect of the governmental decision on the councilmember's economic interest is material. Therefore, unless the decisions can be segmented or unless the presumption rebutted, he is presumed to have a conflict of interest and may not participate in this decision.

James R. Lindholm Jr.

County of San Luis Obispo

Dated: November 7, 2005

File Number I-05-212

An assistant county counsel who owns residential real property within a community services district may be disqualified from advising the county on a proposed takeover of the district's sewage project, unless the foreseeable financial effects of the county's decision on the official's residential real property is not distinguishable from the effects on a significant segment of property owners or homeowners within the jurisdiction.

Laurene Weste

City of Santa Clarita

Dated: November 14, 2005

File Number A-05-213

A city mayor is advised that because her

home and ranch are within 500 feet of the boundaries of a redevelopment project, she is presumed to have a conflict of interest in decisions regarding that project.

Gift Limits

Deborah Kanner

CalSTRS

Dated: December 21, 2005

File Number I-05-168

A public agency seeks advice regarding the gift reporting requirements of the Act concerning the proper "due diligence" an employee must use to determine the source of the gift when it is received from an entity in a parent/subsidiary relationship as described under regulation 18945.1(d). The requestor is advised that it is the duty of the individual public official receiving the gift to make sufficient inquiry as to the source of the gift on a case-by-case basis. While a letter requesting certain information about businesses in a parent/subsidiary relationship with respect to determining whether they act independently in their actions is a method that could be used as part of due diligence, the response could not be used as a blanket form response applicable to all gifts received from the company.

Kim Alexander Yarbor

Office of County Counsel

Dated: December 28, 2005

File Number A-05-243

Free passes and parking to attend the county fair provided by the organization that operates the fair on county-owned property are gifts to members of the board of supervisors and the county administrator if they do not meet a regulatory exception to the definition of "gift." Nevertheless, if the value of the gift is under \$50, it is not reportable on the officials' statements of economic interests.

Mark Geiger

Department of Justice

Dated: November 3, 2005

File Number A-05-211

A designated employee of a state agency may

(Continued on page 39)

(Continued from page 38)

receive payments of travel to China from a charitable entity, organized under IRC 501(c)(3), to perform lectures on California's criminal law enforcement efforts. These payments are reportable as either gifts or income. If they are a gift, the payments are not subject to the gift limit of \$360.

Lobbying

Terry B. Gorton

Dated: November 18, 2005

File Number A-05-220

This letter advises that under the specific facts presented, the requestor is not required to take the Lobbying Ethics Orientation course. Also, the lobbyist lobbied for a brief period of time, has ceased all lobbying activity in California, and does not intend to lobby the State of California in the future. There were no required courses held while she was a lobbyist.

Revolving Door

Gerald H. Goldberg

G.H. Goldberg Consulting

Dated: December 14, 2005

File Number I-05-225

General advice on the Act's post-governmental employment restrictions is provided as applied to the recently-retired executive officer of a state agency who intends to seek employment advising private firms which have dealings with his former agency and other governmental agencies.

Vicki De Kay

Department of Health Services

Dated: November 18, 2005

File Number I-05-158

The Act does not prevent a nurse, retired from a state agency, from providing nursing services to Indian health centers, as long as she does not appear before, or communicate with, her former agency in contravention of the permanent or one-year bans contained in sections 87401 et seq.

Steven S. Lucas

Department of Water Resources

Dated: November 2, 2005

File Number I-05-160

A former employee of a state agency is advised that the permanent ban may apply to a proceeding relating to a contract involving CALFED's Upper Yuba River Studies Program when the former employee worked as a representative to the CALFED program from DWR, one of CALFED's participating agencies, if the provisions of the amended contract under which he seeks to participate in are substantially similar to the provisions of the original contract.

Dale Sorbello

Department of Developmental Services

Dated: November 9, 2005

File Number I-05-193

A state official is advised the Act does not prevent him from being employed by or consulting with a non-profit, a regional center, or a regional center provider, provided that the official abides by the one-year ban, the permanent ban restrictions and the prohibition on influencing prospective employees. In addition, the Act does not bar public officials from maintaining outside employment during their tenure as public officials. However, other bodies of law may restrict such employment, such as the law governing "Incompatible Activities of State Officers and Employees," as well as contractual or other restrictions in section 1090. The Commission cannot offer advice in those areas.

Statements of Economic Interests

Richard A. Levy

State Bar of California

Dated: December 23, 2005

File Number A-05-224

The requestor was advised that, for purposes of completing his Form 700, Statement of Economic Interests, income received by his wife, a court reporter, as an employee of the court, is considered to be governmental salary and, therefore, exempt from the Act's definition of "income."

